Written Testimony

February 15, 2017 Public Hearing
Regarding Proposed Amendments to the CGS §8-30g
Affordable Housing Land Use Appeals Procedure

I Am in Favor of: H.B. #6428, H.B. #6589, H.B. # 6591,
H.B. # 6598, H.B. # 6600, H.B. # 6880, & S.B. #535

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I believe that CGS §8-30g, while created with good intentions, is overly complex, too subjective, the source of excessive litigation, creates unintended consequences, enables and encourages land use abuse, and distorts the free marketplace.

§8-30g affordable housing applications take precedence over the Plan of Conservation and Development (CGS §8-23-(a)-(1)) and intentionally disregards the master plan of local land use regulations and local zoning maps. As a result, §8-30g Affordable Housing Land Use Applications result in developments that are constructed in inappropriate locations, are incompatible with adjacent land uses, degrade the appearance and fabric of our communities, encourage costly litigation, and create new societal problems. Most importantly, §8-30g, in spite of its many "costs", has failed to produce the amount of affordable housing its creators intended.

One of the unintended consequences is that §8-30g encourages land use abuse. There are many horror stories. For example, in Ledyard the owner of a mostly underwater lot in an R-20 single-family district desired to build a waterfront dwelling but was unable to do so because of the front setback requirement. He applied under §8-30g to nullify the setback requirement by proposing three stacked identical one-bedroom apartments, with the middle unit deed restricted to satisfy the §8-30g 30% requirement, and the bottom unit for his personal use. However, because of a surplus of local 1-bedroom units in the area, the rents for his units *would be "affordable" without the need for §8-30g deed restrictions*. By exploiting §8-30g, the owner "solved" his setback problem. His triplex also created parking problems, exceeded the height regulations for the district which blocked the water views of several neighbors, reduced nearby property values and tax revenues, and created an eyesore for our Town.

The unintended difficulties and "costs" of §8-30g include the following:

1. The deed restriction constraints are difficult and costly to enforce on residents who own their "affordable" units when they are unlawfully rented out at market rates. Penalties would help, but would not solve this problem.

2. Because there is little or no opportunity for appreciation when resident owned deed restricted "affordable" units are sold, there is little incentive for the owners of such dwellings to maintain or improve their units. As such, resident owned deed restricted affordable dwellings are more likely to be poorly maintained and will deteriorate more rapidly than equivalent market rate dwelling units.

3. Deed restricted units will sell for less, and produce less tax revenue, than equivalent market rate units in the same development, which is fundamentally unfair.

4. If the "median income" in a geographic area decreases, or more likely if income taxes, property taxes, interest rates, and/or the cost of utilities or insurance increases, the maximum allowed sales price of a deed-restricted unit in the area would decrease, resulting in a loss to its owner and its lender when the affordable unit is sold.

5. At the end of 40 years, when deed restricted "affordable" units become "market rate" units, their owners, overnight, will reap substantial capital gain benefits, which is fundamentally unfair.

6. Equally unfair, after 40 years, tenants may have to vacate when, overnight, their rents are increased to market rates.

Recognizing that §8-30g is not likely to be repealed, I support the following amendments to reduce abuse, reduce litigation costs, and to create more affordable housing.

S.B. No. 535
H.B. No. 6428
H.B. No. 6880

I support their proposals to require a three-person panel to hear affordable housing appeals. Hopefully, this would reduce litigation costs and accelerate development of meritorious affordable housing proposals. Hopefully, the amended statute should allow the three-person panel to be composed of local volunteers.

H.B. No. 6589
H.B. No. 6880

I support their proposals to increase the minimum number of affordable units in affordable housing developments. I suggest 100% of the units be "affordable" (in perpetuity), with 50 dwellings being the minimum allowed, to justify what is effectively an 8-30g grant of immunity from local zoning regulations.

H.B. No. 6598

I support the idea proposed in H.B. No. 6598 to require "affordable units" to be "affordable" in perpetuity instead of only 40 years. This would avoid the unintended consequences of unfair capital gains and losses for owners and tenants associated with overnight future reversions of affordable housing units to market rate units.

H.B. No. 6591

I support amending the law to prohibit the conversion of age-restricted housing developments to affordable housing developments. An improvement would be to also prohibit the use of 8-30g to nullify pre-existing special exception permits, or to prohibit the nullification of conditions imposed by variance.

H.B. No. 6600

I strongly support the proposal of allowing low-cost housing created by market forces and government subsidized housing to be credited towards the threshold number of affordable housing units required to qualify for an exemption from the affordable housing land use appeals procedure. This is only fair – it should not matter if existing "low cost" housing is or is not deed restricted.